

## 1 HOUSE BILL NO. 428

2 INTRODUCED BY KEANE, BARRETT, FORRESTER, GALLUS, GRIMES, LASLOVICH, LENHART,  
3 MATTHEWS, MCCARTHY, MENDENHALL, NEWMAN, B. RYAN, SHEA, SMITH, F. THOMAS, A. OLSON

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE RECLAMATION REQUIREMENTS FOR METAL  
6 MINES BY ELIMINATING A PROVISION NOT REQUIRING BACKFILLING; AMENDING SECTION 82-4-336,  
7 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 82-4-336, MCA, is amended to read:

12 **"82-4-336. Reclamation plan and specific reclamation requirements.** (1) Taking into account the  
13 site-specific conditions and circumstances, disturbed lands must be reclaimed consistent with the requirements  
14 and standards set forth in this section.

15 (2) The reclamation plan must provide that reclamation activities, particularly those relating to control  
16 of erosion, to the extent feasible, must be conducted simultaneously with the operation and in any case must  
17 be initiated promptly after completion or abandonment of the operation on those portions of the complex that  
18 will not be subject to further disturbance.

19 (3) In the absence of an order by the department providing a longer period, the plan must provide that  
20 reclamation activities must be completed not more than 2 years after completion or abandonment of the  
21 operation on that portion of the complex.

22 (4) In the absence of emergency or suddenly threatened or existing catastrophe, an operator may not  
23 depart from an approved plan without previously obtaining from the department written approval for the proposed  
24 change.

25 (5) Provision must be made to avoid accumulation of stagnant water in the development area to the  
26 extent that it serves as a host or breeding ground for mosquitoes or other disease-bearing or noxious insect life.

27 (6) All final grading must be made with nonnoxious, nonflammable, noncombustible solids unless  
28 approval has been granted by the department for a supervised sanitary fill.

29 (7) When mining has left an open pit exceeding 2 acres of surface area and the composition of the floor  
30 or walls of the pit are likely to cause formation of acid, toxic, or otherwise pollutive solutions ("objectionable

1 effluents") on exposure to moisture, the reclamation plan must include provisions that adequately provide for:

2 (a) insulation of all faces from moisture or water contact by covering the faces with material or fill not  
3 susceptible itself to generation of objectionable effluents in order to mitigate the generation of objectionable  
4 effluents; or

5 (b) processing of any objectionable effluents in the pit before they are allowed to flow or be pumped out  
6 of the pit to reduce toxic or other objectionable ratios to a level considered safe to humans and the environment  
7 by the department; or

8 (c) drainage of any objectionable effluents to settling or treatment basins when the objectionable  
9 effluents must be reduced to levels considered safe by the department before release from the settling basin;  
10 or

11 (d) absorption or evaporation of objectionable effluents in the open pit itself; and

12 (e) prevention of entrance into the open pit by persons or livestock lawfully upon adjacent lands by  
13 fencing, warning signs, and other devices that may reasonably be required by the department.

14 (8) Provisions for vegetative cover must be required in the reclamation plan if appropriate to the future  
15 use of the land as specified in the reclamation plan. The reestablished vegetative cover must meet county  
16 standards for noxious weed control.

17 (9) (a) With regard to disturbed land other than open pits and rock faces, the reclamation plan must  
18 provide for the reclamation of all disturbed land to comparable utility and stability as that of adjacent areas.

19 (b) With regard to open pits and rock faces, the reclamation plan must provide for reclamation to a  
20 condition:

21 (i) of stability structurally competent to withstand geologic and climatic conditions without significant  
22 failure that would be a threat to public safety and the environment;

23 (ii) that affords some utility to humans or the environment; and

24 (iii) that mitigates postreclamation visual contrasts between reclamation lands and adjacent lands.

25 ~~(c) The reclamation of open pits and rock faces does not require backfilling, in whole or in part, except~~  
26 ~~and only to the extent necessary to meet the requirements of the applicable provisions of Title 75, chapters 2~~  
27 ~~and 5.~~

28 (10) The reclamation plan must provide sufficient measures to ensure public safety and to prevent the  
29 pollution of air or water and the degradation of adjacent lands.

30 (11) A reclamation plan must be approved by the department if it adequately provides for the

1 accomplishment of the requirements and standards set forth in this section.

2 (12) The reclamation plan must provide for permanent landscaping and contouring to minimize the  
3 amount of precipitation that infiltrates into disturbed areas, including but not limited to tailings impoundments and  
4 waste rock dumps. The plan must also provide measures to prevent objectionable postmining ground water  
5 discharges."

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7 NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF SENATE BILL NO. 366 AND [THIS ACT] ARE BOTH  
8 PASSED AND APPROVED, THEN [THIS ACT] IS VOID.

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10 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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12 NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the  
13 meaning of 1-2-109, to permits and permit amendments approved by the department of environmental quality  
14 after September 30, 1995.

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